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# Northern Rockies Report on 1994 Natural Resources Legislation

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# ESSAY

## NORTHERN ROCKIES REPORT ON 1994 NATURAL RESOURCES LEGISLATION

Last year (1994) was a disastrous year in Congress for individuals and organizations that are concerned about protecting the exquisite, but increasingly vulnerable, natural resources in the Northern Rocky Mountain region. Despite the growing threats to those resources, the 103d Congress enacted virtually no statutes of consequence to the protection or preservation of the resources during its second session.

There are numerous prominent examples of measures that could have significantly affected the resources of this region but which failed to pass. These included proposed amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Endangered Species Act (ESA), and the Clean Water Act as well as a bill that would have fundamentally revamped the increasingly antiquated Mining Law of 1872. Congress refused to adopt a Montana state wilderness measure, although it has annually considered such legislation for the last sixteen years. Even comparatively innocuous proposals, such as one to protect the unique geothermal resources of Yellowstone National Park, were not enacted.

Congressional inability to pass some of these bills can be ascribed principally to national political machinations. For instance, the perceived importance of other measures, including the crime bill and health care reform legislation, and arguments that stringent environment controls would injure industry and private property owners probably doomed the revisions in CERCLA and the ESA. The amendments may have also fallen prey to the generic recalcitrance of Republican Party senators and representatives who sought to block much legislation in an apparent effort to deny the Democratic Party and President Bill Clinton any claimed legislative successes. The defeat of additional measures, such as the changes in the 1872 Mining Act, which would have taxed minerals extracted from public lands and imposed new environmental requirements on miners, may reflect the strength of western senators, a number of whom vote together on issues perceived to be as central as mining arguably remains to the economic interests of many western states.

The demise of Montana-specific wilderness legislation for the sixteenth year in a row is similarly problematic, and it is more difficult to comprehend without considerable understanding of local political developments in Montana. Congressional failure to pass a Montana state wilderness bill is interesting because Congress has experienced relatively little difficulty enacting measures which cover most of the other western

states, Indeed, Congress has legislated several different statutes governing federal public lands in Colorado.

I want to report on certain political developments in the Big Sky states which will help to illuminate why 1994 was such a dismal year for national legislation relating to Montana natural resources by emphasizing the ongoing wilderness debate. Representative Pat Williams (D-Mont.), who first won election to the House of Representatives in 1978, developed, introduced and skillfully shepherded through the House a wilderness bill that would have created approximately 1.7 million acres of new wilderness. The legislation would also have released much land for multiple use, particularly for resource development, and would have designated considerable additional acreage for further study of its suitability for inclusion in the wilderness system. Representative Carolyn Maloney (D-N.Y.) soon thereafter introduced the Northern Rockies Ecosystem Protection Act, a multi-state wilderness bill which was allegedly premised on ecosystem needs rather than state boundaries. The measure received a hearing; however, the Williams legislation easily eclipsed the broader bill.

Once the House of Representatives passed Representative Williams' proposal and sent it to the Senate, Senator Max Baucus (D-Mont.) reintroduced a measure which would have designated 1.2 million new acres as wilderness, a bill on which the three members of Congress had agreed in principle during 1992. Senator Conrad Burns (R-Mont.), a first-term member of the senate, who was running for re-election, introduced legislation that allocated approximately 800,000 new acres to wilderness, describing the measure as one that would protect and create jobs for Montanans. Neither the Baucus nor the Burns proposal received a hearing.

Senator Burns' introduction of this wilderness legislation effectively jettisoned any hopes for passage of a Montana-specific measure during 1994. Senator Burns, Senator Baucus and Representative Williams apparently failed to participate in meaningful efforts to reach a compromise on the wilderness issue. This situation can be partially explained by the fact that Senator Burns and Representative Williams were running for reelection, and both seemed to fear that they might appear to be compromising. Given the substantial deference that senators and representatives accord to the views of the congressional delegation who represent the state for which wilderness legislation is proposed, the inability of Burns and Representative Williams to reach agreement spelled the death of Montana wilderness legislation for the sixteenth straight year.

It now seems that only two factors could break this apparent standoff. One would be the defeat of either Senator Burns or Representative Williams and the concomitant capacity of their replacements to work

with the remaining members of the congressional delegation to develop acceptable wilderness legislation. The other would be for members of the Senate and House to tire of the Montana delegation's inability to draft a wilderness bill, to eschew the deference traditionally shown to those representing the state where wilderness is to be designated and to pass a Montana state wilderness measure. The threat that wilderness legislation might be imposed on Montana by others than the Treasure State's elected senators and representatives could suffice to encourage the Montana delegation to reach a compromise which would be preferable for its members and for most Montanans.

This report on natural resources legislation affecting the north country is meant to afford a sense of why so few measures passed during 1994. The report indicates that political machinations on the ground in Montana, especially the 1994 re-election bids, primarily explain the defeat of some measures, especially the state-specific wilderness legislation.

Carl Tobias\*

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